

H14/Heg14 B-1  
T. McBeth D  
12/15/02

Docket No.: SON-1680  
(80001-1680)

PATENT APPLICATION



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Toshiyuki NAKAMURA et al.

Confirmation No.: 6811

Application No.: 09/430,124

Group Art Unit: 2126

Filed: October 29, 1999

Examiner: Phuong N. Hoang

For: SYSTEM FOR TRANSFERRING DATA  
BETWEEN APPLICATION SYSTEMS

APPELLANT'S REPLY BRIEF

**MS Appeal Brief - Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is in furtherance of the Notice of Appeal, filed in this case on May 6, 2003, and is made in response to the Examiner's Answer (Paper No. 12) mailed September 22, 2003, and is supplemental to the Appeal Brief (Paper No. 11).

The fees required under § 1.17(f) and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief is transmitted in triplicate.

RECEIVED  
NOV 25 2003  
Technology Center 2100

## I. SUMMARY OF INVENTION

The Examiner's Answer (Paper No. 12) states that the Summary of the Invention is allegedly deficient for not referring to page and line numbers. Appellant presents a revised Summary as follows:

Claim 4 recites a mediating system 20 centrally located among "n" application systems 10 respectively operated within an operation operating environment and being configured to support data transfers among the application systems 10, comprising: one data entry (see Fig. 5) connected to each of said "n" application systems 10; "n" data exits (see Fig. 5) connected respectively to said respective "n" application systems 10; a transmission function group (see, for example, 108 in Fig. 6 and Figs. 2-4) linked to said one data entry and to said "n" data exits for receiving data originated from one of said "n" application systems and for transmitting the data received through said data entry to a destination application system among said "n" application systems; and a transmission path determination function group (see Fig. 4) for selectively determining said destination application system among said "n" application systems in accordance with a destination name attached to the data received through said data entry.

Claim 6 recites a mediating system 20 centrally located among a plurality of application systems 10, the mediating system configured to support data transfers among the application systems, comprising: a data entry (see Fig. 5) connected to each application system; a plurality of data exits (see Fig. 5), each data exit connected to a corresponding application system; a transmission function group (see, for example, 108 in Fig. 6 and Figs. 2-4) linked to said data entry connected to a first application system and to at least one of said data exits connected to a second application system for receiving data originated from said first application system and for transmitting the data received through said data entry to the second application system; and a transmission path determination function group (see Fig. 4) for selectively determining said second application system among said plurality of application systems in accordance with a destination name attached to the data received through said data entry.

Accordingly, the mediating system 20, also known as a broker, of claim 4 includes one data entry and "n" data exits. See for example page 4, lines 4-5 and page 5, line 23 to page 6, line 1. The mediating system 20 of claim 6 has a plurality of data exits corresponding to the

plurality of application systems 10. In this manner, the mediating system has one data entry that can receive data from each of the application systems, and when the destination is determined, the data exits the data exit corresponding to the application system. See for example page 6, lines 1-4.

Each CPU shown in Fig. 1, for example, is defined as a separate application system 10. Two or more application systems 10 create a system operating environment, so long as the two applications systems 10 can transfer data between themselves. The broker 20 is placed in this system operating environment. See for example page 3, line 22 to page 4, line 24.

## II. ARGUMENTS

In the Final Office Action of February 13, 2003 (Paper No. 9), and repeated in the Examiner's Answer (Paper No. 12), the following rejection was presented by the Examiner:

- (i) 35 U.S.C. §102

The Examiner rejected claims 4-7 under 35 U.S.C. §102(e) as being anticipated by Marcos et al. '342.

For at least the following reasons, Appellant submits that this rejection is both technically and legally unsound and should therefore be reversed.

The Office Action rejected claims 4-7 under 35 U.S.C. §102(e) as being anticipated by Marcos et al. '342 in paragraph 1 of the Office Action (Paper No. 9). Appellant respectfully traverses this rejection.

As discussed above, the mediating system 20, also known as a broker, of claim 4 includes one data entry and "n" data exits. The mediating system 20 of claim 6 has a plurality of data exits corresponding to the plurality of application systems 10. In this manner, the mediating system has one data entry that can receive data from each of the application systems, and when

the destination is determined, the data exits the data exit corresponding to the application system.

Each CPU shown in Fig. 1, for example, is defined as a separate application system 10. Two or more application systems 10 create a system operating environment, so long as the two applications systems 10 can transfer data between themselves. The broker 20 is placed in this system operating environment.

Marcos et al. '342 discloses brokering object messages among object models, and includes a mediating system within one of the application systems or both of the application systems. See col. 4, lines 60-63. More specifically, the mediating component intercepts messages sent by a client object to the server object. However, the client believes that the messages are being sent directly to the server object. See col. 3, lines 39-60.

The Office Action opines, contrary to Marcos et al. '342, that the mediating system of Marcos et al. '342 is "not included within any of the application system (mediating system can reside in a single-process machine, col. 7, lines 44-46)." See Office Action at paragraph 2, lines 6-8. However, the phrase from Marcos et al. '342 is taken out of context. The complete sentence in Marcos et al. '342, with emphasis added, is "Mediating component 204 can reside on either the client or the server and can run in a process (i.e., a discrete address space) or in a single process machine." Accordingly, when taken in context, the mediating system resides within one of the application systems (client or server) or both of the application systems.

In contrast, the claimed mediating system is not included within any of the application systems. Still further, the claimed mediating system includes one data entry and a plurality, or "n" data exits.

In the Examiner's Answer (Paper No. 12) at paragraph 11, the examiner alleges that the element of the mediating system not being included within any of the application systems is not recited in the rejected claims, and accordingly, limitation from the specification will not be read into the claims.

Appellant disagrees. The rebuttal offered by the examiner is erroneous, as Appellant is arguing that this element is not in the reference, and that the claim, when interpreted in view of the specification, contains this element.

Still further, the examiner introduces a new reference, namely a definition from a

dictionary that is not of record. See Examiner's Answer (Paper No. 12) at page 5, second full paragraph. Appellant objects to the Examiner's inclusion of the definition and reference to a dictionary not of record. At the very least this is taking a word out of the context of the claim and the specification. Still further, if this is to be considered Official Notice of a dictionary definition, then Appellant requests that the relevant citation and pages be made of record by the Examiner, or an affidavit supplied, and this is to be considered a complete challenge to the Examiner's Official Notice. Appellant believes the claims are clear on their face, and are clear when taken in view of the specification.

Still further, the definition of "among" is not "in or through" as represented by the Examiner, when taken in view of the specification, rather, is "amid," or "surrounded by." This definition is found in Webster's II New College Dictionary, 1995, also not of record. It is clear that the Examiner has taken a definition out of context when read in view of the specification, and is another example of the Examiner misinterpreting the claims.

Accordingly, the Examiner has misinterpreted the claims.

The Examiner has the burden of presenting a *prima facie* case of anticipation. See In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138-139 (Fed. Cir. 1986); In re Wilder, 429 F.2d 447, 450, 166 USPQ 545, 548 (C.C.P.A. 1970). Additionally, the claim must first be correctly construed to define the scope and meaning of each contested limitation. See In re Paulsen, 30 F.3d 1475, 1479, 31 USPQ 2d 1671, 1674 (Fed. Cir. 1994). As discussed above, the Examiner has incorrectly construed the claims to define their scope and meaning. Accordingly, this rejection is improper and the rejection should not be sustained.

A document can only anticipate a claim if the document discloses, explicitly or implicitly, each and every feature recited in the claim. Verdegall Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Since Marcos et al. '342 fails to disclose, either explicitly or implicitly, at least the above-noted feature recited in independent claims 4 and 6, Marcos et al. '342 cannot anticipate the claims. At least in view of the foregoing, claims 4 and 6 are allowable, and the rejection should not be sustained.

Claims 5 and 7, depending from claims 4 and 6, respectively, are also allowable for the elements they recite, as well as depending from allowable base claims. Withdrawal of this rejection is respectfully requested.

## CONCLUSION

In view of the foregoing reasons, supplemental to the Appeal Brief (Paper No. 11), Appellant submits that the final rejection of claims 4-7 is improper and should not be sustained. Therefore, a reversal of the Final Rejection of February 13, 2003, as to claims 4-7, is respectfully requested.

Respectfully submitted,

By \_\_\_\_\_

Ronald P. Kananen

Registration No.: 24,104

Robert S. Green

Registration No.: 41,800

**RADER, FISHMAN & GRAUER PLLC**

The Lion Building

1233 20th Street, N.W., Suite 501

Washington, DC 20036

Tel.: (202) 955-3750

Fax: (202) 955-3751

Customer No. 23353

Attorneys for Applicant

DC140310